

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
OREGON, STATE OF)	WT Docket 99-87
)	
Request for Waiver of Section 90.209(b) of the)	
Commission's Rules)	

ORDER

Adopted: August 20, 2012**Released: August 20, 2012**

By the Deputy Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. The State of Oregon (Oregon or the State) submitted a request for waiver¹ of the Commission's January 1, 2013 VHF/UHF narrowbanding deadline, which requires private land mobile radio licensees in the 150-174 MHz and 450-512 MHz bands² to operate using channel bandwidth of no more than 12.5 kHz or equivalent efficiency by January 1, 2013.³ Specifically, Oregon seeks a ten-month extension of the deadline until November 1, 2013.⁴ By this Order, we grant the request.

II. BACKGROUND

2. Oregon operates a statewide VHF radio system used by the Oregon State Police (OSP) and Oregon Department of Transportation (ODOT). It also has a limited number of UHF radio systems and UHF links to VHF radio sites.⁵ Oregon began planning its narrowbanding transition in 2005 when the state legislature passed legislation creating the Oregon Wireless Interoperability Network (OWIN).⁶ The State established OWIN to consolidate and replace four

¹ See Request for Waiver of Commission Rules, filed May 8, 2012, by the State of Oregon (Waiver Request). See also Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Third Memorandum Opinion and Order and Third Further Notice of Proposed Rule Making and Order*, WT Docket No. 99-87, 19 FCC Rcd 25045 (2004).

² A suspension on applications in the T-Band (450-512 MHz) has been in effect since April 26, 2012. See Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Suspend the Acceptance and Processing of Certain Part 22 and 90 Applications for 470-512 MHz (T-Band) Spectrum, *Public Notice*, 27 FCC Rcd 4218 (WTB/PSHSB 2012).

³ 47 C.F.R. § 90.209(b).

⁴ Waiver Request at 1.

⁵ See Waiver Request at 1. See Appendix A for a list of call signs for which Oregon is seeking a waiver.

⁶ See Waiver Request at 1.

existing state agencies' radio systems into a single trunked radio system operating in the 700 MHz band by the January 1, 2013 narrowbanding deadline.⁷ However, in 2011 the governor restructured the plan in response to declining state revenue.⁸ Consequently, the Oregon state legislature limited the scope and funding of the project to narrowband the OSP and ODOT VHF systems, in addition to other upgrades, while continuing to slowly build out the state's 700 MHz digital trunked system.⁹

3. The ODOT and OSP radio systems include 180 sites with 250 repeaters and "more than 3000 users on the radio system, as well as radios in the district and field offices."¹⁰ Oregon notes that the majority of the existing infrastructure and subscriber equipment is not narrowband-capable and therefore must be replaced.¹¹ To carry out the upgrades, Oregon issued a Request for Proposals on December 4, 2009,¹² and entered into a contract with Harris Corporation in December 2010, for all necessary equipment.¹³ In June 2011, after Oregon began installing the 192 VHF repeaters it received from Harris Corporation, the State encountered technical difficulty that caused it to lose approximately two months of installation time.¹⁴ Although Oregon had installed eighty-two repeaters as of mid-March 2012, inclement weather conditions rendered several sites inaccessible for much of the year, causing further delay.¹⁵

4. In October 2011, the State began to install new narrowband-capable, multiband mobile radios in vehicles, issue new portable radios and train users.¹⁶ But, on January 19, 2012, the State halted these efforts because of technical problems.¹⁷ Harris Corporation corrected the problems with new software, and the State completed radio redeployment by June 2012.¹⁸ Oregon states that it can complete its upgrades, including field testing and deployment of narrowband-compliant equipment by November 1, 2013.¹⁹

⁷ See *id.* at 2. This plan included replacing the State's UHF and VHF radio systems, thus eliminating the need to upgrade the systems to comply with the narrowbanding requirement. See *id.*

⁸ See letter dated June 21, 2012 from Thomas J. Lauer, manager of the Major Projects Branch to Federal Communications Commission, at 1 (Lauer Letter). See also Waiver Request at 2. The State plans to continue to build out its 700 MHz system as funding is appropriated. See Lauer Letter at 1.

⁹ See Lauer Letter at 2; Waiver Request at 2. The other upgrades that are part of the project include upgrading the State's analog microwave network to digital, improving communications facilities, and constructing approximately 45 Project 25 700 MHz digital trunked radio systems to cover 70 percent of Oregon's population. See Waiver Request at 2, 5. Oregon no longer plans to relinquish its VHF/UHF frequencies because the currently planned 700 MHz system will not cover the entire state. See *id.* at 6; see also Lauer Letter at 1.

¹⁰ See Waiver Request at 4.

¹¹ *Id.*

¹² See *id.* at 3, 5, Ex. 5.

¹³ *Id.*

¹⁴ See *id.* at 3.

¹⁵ See *id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ See Lauer Letter at 2.

¹⁹ See Waiver Request at 6.

5. On May 10, 2012, the Public Safety and Homeland Security Bureau (Bureau) issued a Public Notice seeking comment on the Waiver Request.²⁰ No party filed comments in support or opposition.

III. DISCUSSION

6. Oregon seeks relief pursuant to Section 1.925 of the Commission's rules, which provides that to obtain a waiver of the Commission's rules, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest;²¹ or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.²²

7. Applying this standard to narrowbanding, we stated in the *Narrowbanding Waiver Guidance Notice*, jointly issued by the Wireless Telecommunications Bureau, the Public Safety and Homeland Security Bureau, and the Office of Engineering and Technology, that narrowbanding waiver requests "will be subject to a high level of scrutiny" under the waiver standard.²³ We have also provided guidance on the factors that licensees should address in their waiver requests. Specifically, we stated that, when addressing these factors, licensees should seek to demonstrate that "(i) they have worked diligently and in good faith to narrowband their systems expeditiously; (ii) their specific circumstances warrant a temporary extension of the deadline; and (iii) the amount of time for which a waiver is requested is no more than is reasonably necessary to complete the narrowbanding process."²⁴

8. Based on the record before us, we find that Oregon warrants waiver relief because it has demonstrated that it faces unique or unusual factual circumstances such that application of the narrowbanding deadline would be inequitable, unduly burdensome, or contrary to the public interest. The record shows that Oregon has exercised due diligence and good faith in its efforts to timely comply with the narrowbanding requirements since 2005.²⁵ The record also shows that Oregon had to abandon its original plan – by which the State was to migrate to a 700 MHz digital trunked system and relinquish its UHF and VHF frequencies, thus eliminating the need to upgrade the VHF/UHF systems – because of the State's budgetary problems.²⁶ In addition, the record shows that, notwithstanding its best efforts to comply with the narrowbanding deadline, Oregon encountered several technical and weather-related problems that substantially affected its ability to complete its revised plan to upgrade its aging UHF/VHF radio systems on

²⁰ See Public Safety and Homeland Security Bureau Seeks Comment on Requests for Waiver of the January 1, 2013 VHF-UHF Narrowbanding Deadline, *Public Notice*, 27 FCC Rcd. 5101 (PSHSB 2012).

²¹ 47 C.F.R. § 1.925(b)(3)(i).

²² 47 C.F.R. § 1.925(b)(3)(ii).

²³ Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office Of Engineering and Technology Provide Reminder of January 1, 2013 Deadline for Transition to Narrowband Operations in the 150-174 MHz and 421-512 MHz Bands and Guidance for Submission of Requests for Waiver and Other Matters, *Public Notice*, 26 FCC Rcd 9647 (2011) (*Narrowbanding Waiver Guidance Notice*).

²⁴ *Id.* at 9649.

²⁵ See Waiver Request at 1-2.

²⁶ See *id.* at 1-3.

schedule.²⁷ We also find that waiver relief in this particular instance serves the public interest because it will provide the State a reasonable and sufficient amount of time necessary to complete the narrowbanding process; specifically, an additional ten months beyond the January 1, 2013 deadline. In reaching this public interest determination, we find persuasive Oregon's assurance that it does not expect its narrowbanding schedule to affect neighboring systems, and that it will address any issues that do arise on a case-by-case basis.²⁸

IV. CONCLUSION

9. Based on the foregoing, we conclude that grant of the waiver is in the public interest. Accordingly, we grant Oregon a waiver of the Commission's January 1, 2013 VHF/UHF narrowbanding deadline, until November 1, 2013, for the call signs set forth in Appendix A.

V. ORDERING CLAUSES

10. Accordingly, IT IS ORDERED pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925(b)(3) of the Commission's rules, 47 C.F.R. § 1.925(b)(3), that the Request for Waiver filed by the State of Oregon IS GRANTED.

11. We take this action under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

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²⁷ See *id.* at 3-4.

²⁸ See *id.* at 5.

Appendix A: List of Affected Call Signs**Oregon State Police VHF Call Signs**

KA35549	WNAQ838	WNKX636	WPGZ916
KA77889	WNAQ839	WNLA339	WPHW992
KA91086	WNAQ840	WNLB626	WPHZ210
KA96526	WNAQ841	WNLB627	WPHZ476
KB65128	WNAQ842	WNLB628	WPIC236
KB79438	WNAQ845	WNLH372	WPIC670
KFF659	WNAQ846	WNLH373	WPIC970
KFF670	WNAQ847	WNLN398	WPIG468
KJ9235	WNAQ848	WNLP416	WPIP294
KJ9251	WNAQ849	WNLS755	WPIZ335
KNBN597	WNAQ850	WNLS756	WPKA928
KNIC783	WNAQ851	WNLX648	WPKF805
KNIC784	WNAQ852	WNMU912	WPKG503
KNIC785	WNAU894	WNGG200	WPKJ419
KNIJ820	WNBC294	WNQH601	WPKP566
KNIS797	WNBL358	WNQH955	WPYD870
KNIS798	WNCQ867	WNQH956	WQDD261
KNIS799	WNDM948	WNQH962	WQEU699
KNIS801	WNEB887	WNQJ379	WQEV595
KNIS802	WNFK355	WNQM529	WQEV658
KNIS805	WNFK876	WNQM905	WQEV664
KNIS806	WNFK877	WNQW392	WQEV665
KNIS906	WNFK878	WNXD389	WQEV766
KNIY683	WNFK879	WNXX334	WQEV794
KNIY684	WNFK880	WNYF874	WQFK762
KNIY685	WNFU411	WNYF878	WQFK968
KNNI941	WNFU419	WNYF221	WQHA415
KOL239	WNFU423	WNZE909	WQIB432
KQV430	WNID346	WNZN460	WQJG401
WDF841	WNID350	WNZQ829	WQJN250
WDF842	WNID359	WNZW590	WQLM462
WFR330	WNID363	WPBW866	WQMA926
WGC604	WNIG952	WPCB718	WQNA876
WGC647	WNJN920	WPCD655	WQOR253
WNAQ586	WNK881	WPCG426	WQOX755
WNAQ587	WNKH974	WPES398	WQOX981
WNAQ588	WNKW507	WPES434	WQU456

WRG378

WYW974

WZX451

Oregon State Police UHF Call Signs

KA77889

KB66106

KD23461

WNMJ350

KB24483

KB66107

KR3287

WNMU912

KB43910

KB66108

WNKH974

WPEZ327

KB63508

KB94125

WNKR365

WPHZ210

KB66105

KD22720

WNLH373

WQEV794

Oregon Department of Transportation VHF Call Signs

KBM

WNIC471

WPKH249

WPVN948

KC4319

WNIF413

WPLG712

WQAH869

KD27432

WNJC994

WPLW670

WQAI427

KNEN657

WNLF749

WPMH560

WQAR649

KOG981

WNLF753

WPPD905

WQAU334

KVF862

WNMJ737

WPPE571

WQBK392

WHG913

WNMM405

WPPF433

WQDF230

WHG914

WNPH920

WPQB984

WQEB436

WNFE469

WNXQ733

WPQD846

WQEQ650

WNFE470

WPOJ274

WPQY807

WQFA694

WNFN838

WPEN729

WPSY290

WQFF474

WNFQ363

WPEX803

WPTC998

WQFH628

WNFZ722

WPHA283

WPTE878

WQFS313

WNGP500

WPIC742

WPTP997

WQGB859

WNGP501

WPJG822

WPTS564

WQGD288

WNGP502

WPJL218

WPUS740

WQIB262

WNGP503

WPJP226

WPVA881

WQJI948

WNHE447

WPJP227

WPVI702

WQKR363

WNHE496

WPKB709

WPVM219

WQLF580

WNHT289

WPKF587

WPVM656

WRD615

Oregon Department of Transportation UHF Call Signs

KB74700

WPEQ272

WPUT390

WQLP283

KB80275

WPGY302

WPVB925

KB80276

WPKQ444

WPWE576

KB86683

WPPE571

WPZK773

KD50990

WPQD961

WQAJ686

WNHT289

WPRV803

WQBP279

WPCR930

WPSF961

WQCT563